

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EMAN SOUDANI,

Plaintiff,

v.

23 CV. 9905 (PMH)

MOUT'Z SOUDANI,

Defendant.

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U.S. Courthouse
White Plains, N.Y.
March 27, 2024
12:00 p.m

BEFORE: HON. PHILIP M. HALPERN
United States District Judge

APPEARANCES:

LEWIS BAACH KAUFMANN MIDDLEMISS, PLLC
BY: MARC F. SCHOLL, Esq.
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Attorney for Plaintiff

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Sue Ghorayeb, R.P.R., C.S.R.
Official Court Reporter

1 THE CLERK: In the matter of Soudani against
2 Soudani. Can counsel please note your appearance for the
3 record starting with Plaintiff.

4 MR. SCHOLL: For the Plaintiff Eman Soudani, Marc
5 Scholl, with the firm Lewis Baach Kaufmann Middlemiss.

6 MR. BURKE: Good afternoon, Your Honor. Michael
7 Burke, Hodges Walsh & Burke, on behalf of Mout'z Soudani, the
8 Defendant.

9 THE COURT: All right. Counsel, good afternoon.
10 Please be seated.

11 All right. I've read the various letters concerning
12 these subpoena, and as I get the global picture, Mr. Burke
13 became a late entrance into this subpoena issue, because his
14 client had not authorized him to represent him. And, so, Mr.
15 Burke has now come in and said, "give me a chance to respond
16 to the document production and this may obviate the need for
17 the subpoena."

18 So, I looked into this, and, very frankly, I think
19 the subpoena requests an awful lot of material, and I want to
20 understand why the Plaintiff's document request and subpoena
21 request for not in haec verba the same pieces of paper, but
22 generically the same pieces of paper. A lot of the time
23 frames are different. Is there something I'm missing or are
24 we fooling around here with a nonparty subpoena --

25 MR. SCHOLL: No.

1 THE COURT: -- trying to get more than we can get?

2 I don't understand it. So, let's do one at a time,
3 and with the backdrop that the Amended Complaint, as I read
4 it, has four claims, although the first and the second are the
5 same. They're battery claims. Whether it's sexual abuse or
6 physical abuse, that's a one-year statute of limitations,
7 right?

8 And the infliction -- potential infliction of
9 emotional distress, the fourth one, that's a one-year statute
10 of limitations.

11 And the third claim, unjust enrichment, I think is a
12 six-year statute. I may be wrong about that.

13 MR. SCHOLL: Your Honor, on the sexual abuse and the
14 other -- on the other battery, because of state law, the
15 statute of limitations were opened up, and it is our position
16 that they opened up and allowed for other claims that could
17 have been brought as well.

18 THE COURT: Well, you may be right or you may be
19 wrong. I don't know the answer to that.

20 MR. SCHOLL: Okay.

21 THE COURT: But I'm just trying to get a feel for
22 the relevant time frame.

23 MR. SCHOLL: Sure. Well, for the relevant time
24 frame, there are two Trusts, Your Honor.

25 THE COURT: Well, the Trusts are not parties to this

1 proceeding.

2 MR. SCHOLL: That's why we had to use a subpoena,
3 Your Honor.

4 THE COURT: Yeah, I know. I've been around the
5 block.

6 MR. SCHOLL: I'm saying that that's why they had to
7 be used for that, and the Trusts — what is part of the Trust
8 is relevant both to our claims and also to the counterclaim,
9 specifically, related to the 1.6 million of the source of
10 funds with respect to that and whose money it was.

11 THE COURT: Well, I don't — you're saying it's
12 relevant and I'm saying, you know, I don't know that it's
13 relevant.

14 MR. SCHOLL: Right. I know that. I know that.

15 THE COURT: But we're going to do this my way, so
16 let's first talk about the time frames.

17 In your subpoena, you ask — and we'll do the
18 Grantor Trust first. You asked for documents from September
19 21, '17 to the present. In your document request to the — to
20 the Defendant, number 10, you asked for, essentially, for the
21 same financial records from August of '77 to October of 2022.
22 And, so, my first question that I need an answer to is: Why?
23 Why are those time frames different?

24 MR. SCHOLL: Well, for the documents production, I
25 think it's dealing with a series — and if I can pull that

1 out. We are talking about multiple, whatever might exist for
2 that time frame. The Grantor Trust only came into existence,
3 as far as we understand, in 2017.

4 THE COURT: So --

5 MR. SCHOLL: So, it doesn't exist --

6 THE COURT: -- then your document request number
7 10 --

8 MR. SCHOLL: Okay. Let me locate it, Your Honor, if
9 I may.

10 THE COURT: Sure. It's annexed to --

11 MR. SCHOLL: Yes, I understand.

12 THE COURT: -- Mr. Burke's letter.

13 MR. SCHOLL: Right.

14 THE COURT: Number 10 asks for stuff back to '77, so
15 that's gotta be a mistake.

16 MR. SCHOLL: Well, no, because there were
17 other -- it asks for -- with respect to other Trusts, with
18 respect to Mout'z, the Defendant himself. The time frame
19 that's covered for the document production request is not
20 limited to the Grantor Trust.

21 THE COURT: No. I think the individuals -- the
22 statements you're looking for are a variety of statements, but
23 you've subpoenaed the Grantor Trust.

24 MR. SCHOLL: Yes.

25 THE COURT: And the subpoena for the Grantor Trust

1 asked for documents from September of '17 to the present. And
2 the document request asks for financial material, transfer
3 documents —

4 MR. SCHOLL: Right.

5 THE COURT: — from August of '77.

6 MR. SCHOLL: Yes.

7 THE COURT: So that period of time may impact the
8 Defendant himself and it may be different. But you're not, as
9 it relates to the Grantor Trust, asking for documents in your
10 lawsuit from the Defendant beyond September of '17, right,
11 because the Grantor Trust was not in existence?

12 MR. SCHOLL: They certainly can't produce documents
13 that don't exist, Your Honor.

14 THE COURT: Right. Okay. So, what's wrong with —
15 and, I guess, let's do the other one. The Irrevocable Living
16 Trust subpoena asks for documents from February 11, 2022 to
17 the present; whereas, when you ask the individual, you're
18 asking him for the same August '77.

19 MR. SCHOLL: Again, request 10 applies to multiple
20 things, including the Defendant himself, so that those are
21 listed as part of what —

22 THE COURT: Well, you're asking him to produce
23 documents that are within his possession should he have them,
24 but —

25 MR. SCHOLL: But just talking about —

1 THE COURT: — what I'm trying to understand is —

2 MR. SCHOLL: Yes.

3 THE COURT: — why is the document request and the
4 subpoena different?

5 MR. SCHOLL: Well —

6 THE COURT: In other words, I'm — we're going to
7 adjudicate this this morning and we're going to be done with
8 it. And what I'm anticipating is that you're going to have
9 your next discovery dispute because of these dates, and, so, I
10 want to cut that off, because you two need to get along and
11 not create discovery disputes with me that you don't need to
12 create, because I'm just going to take the rules off the shelf
13 and apply them to the questions —

14 MR. SCHOLL: Understood.

15 THE COURT: — the issues you raise.

16 MR. SCHOLL: Going back to the Irrevocable Trust,
17 the reason why the subpoena focuses on that date is that
18 that's I believe the creation of the Irrevocable Trust.

19 THE COURT: I got it. Okay.

20 MR. SCHOLL: All right. So, the subpoenas —

21 THE COURT: Just so we're clear, what we're saying
22 to each other is, is that, when you go back and do your
23 discovery on your document request, you believe that these
24 dates set forth in the subpoena — as opposed to the dates
25 that apply to the Trust and the individual — are appropriate,

1 right?

2 MR. SCHOLL: I will believe the subpoena dates are
3 the most accurate dates —

4 THE COURT: Yes.

5 MR. SCHOLL: — in terms of the particular items.

6 THE COURT: All right. Fair enough. Fair enough.

7 Now, let's just stop for a second.

8 Mr. Burke, your client received the subpoenas,
9 didn't do anything with them, and, so, my inclination is to —
10 because they're subsumed in the document demand, if you can
11 assure me that your client has responsive documents, your
12 Trust clients have responsive documents, I think we'll just
13 fold this into your good suggestion that you produce them in
14 connection with your document response.

15 Now, if your document response is going to be a
16 series of objections and we're not going to get anywhere,
17 we're going to procrastinate, then I'll deal with these
18 subpoena today and I'll issue an order.

19 MR. BURKE: Your Honor, if I may.

20 THE COURT: Yeah.

21 MR. BURKE: I believe he does have some responsive
22 documents to the parameters of 2017 forward in relation to the
23 Trust. However, and I've relayed this to counsel, when their
24 client stole the over \$500,000 from the safe, that's also
25 where the Trusts were contained and those were taken as well.

1 So, it's our position she is in possession of that.

2 But, even more importantly, in their 26(a)
3 disclosures, they identify that the discovery that they've
4 received, both the Plaintiff and her son, from the D.A.'s
5 Office, which includes a lot of the records that they're
6 seeking here, because they did the investigation and
7 prosecuted the son for the \$1.6 million theft from the Trust.
8 So, it's our understanding they have that discovery.

9 I've also come to learn that the attorney that
10 drafted the Trust testified in the grand jury and introduced
11 the Trusts, so they have that as well. But I will once -- I
12 don't have that discovery, because I wasn't a party to the
13 prosecution. It's referenced in the 26(a)'s. We've asked for
14 production of what they received from the D.A.'s Office and
15 we're awaiting the complete response to that. And once we get
16 it, I think we can just say, "all right, you have this."

17 I think -- it doesn't seem to make sense that we
18 reproduce what they already have, if I can compare that, but
19 we'll do whatever the Court wishes.

20 THE COURT: No, no, no. In a scenario like this,
21 Mr. Burke, that they may or may not have documents is, is --
22 unless it becomes abusive or burdensome -- is not a legitimate
23 way to object to a document production.

24 In other words, if your client is in possession of
25 documents responsive to the request, then your client needs to

1 produce documents responsive to the request, period.

2 MR. BURKE: Understood.

3 THE COURT: And what I'm talking about right now are
4 the two subpoenas. The document request is not before me, but
5 I thought it was a good suggestion that we deal with this in
6 connection with that.

7 Now, if there are documents -- and my sense here is,
8 there's a fairly good undercurrent going here between the
9 Plaintiff and Defendant in terms of the emotional animosity,
10 the hate, whatever it is that's driving this, let me urge both
11 of you, lose that thinking when it comes to litigating my
12 case. I will not do well with you and, more importantly, you
13 will not do well with me if you don't get along with your
14 adversary, period. There is no reason for you to adopt the
15 animus of the client here. You have a job to do, do your job.

16 So, if Mr. Burke is asking you to produce documents
17 that are responsive already to your request, he'll do that.

18 MR. SCHOLL: Okay.

19 THE COURT: But you need to do the same thing and
20 you need to do it in a timely way. In other words, if you
21 have documents from the grand jury or from the D.A. or
22 whatever is going on here -- I'm not sure I have a full grasp
23 on this case yet, but I've read the Complaint and I read the
24 counterclaim, and so, quite clearly, somebody is mistaken
25 here, right? Somebody is mistaken.

1 But if your point, Mr. Burke, is, "oh, they took my
2 documents, so I don't have my documents," then you'll say that
3 and that will be your response. But if you have additional
4 copies of the documents --

5 MR. BURKE: Understood.

6 THE COURT: -- in your possession, yeah, you should
7 produce them. Okay?

8 MR. BURKE: Yes, Your Honor.

9 MR. SCHOLL: Your Honor, may I speak for a second?

10 THE COURT: Yes.

11 MR. SCHOLL: I mean, one of our concerns will be
12 that a response will be "I don't physically have them, but I
13 haven't checked with my accountant for the tax returns. I
14 haven't checked with the lawyers that handled the Trusts."

15 THE COURT: Mr. Burke is an entirely capable lawyer.
16 He's been in my courtroom --

17 MR. SCHOLL: I'm not talking about Mr. Burke.

18 THE COURT: -- a million times.

19 MR. SCHOLL: Right.

20 THE COURT: He'll advise his client properly. If
21 the client doesn't comply, I mean, you'll make your
22 appropriate application to me.

23 MR. SCHOLL: I'm just talking about whether that
24 possession includes constructive possession.

25 THE COURT: Possession, custody and control is what

1 the federal rule -- what the case law interpreting those words
2 means.

3 MR. SCHOLL: Right.

4 THE COURT: I'm not here to give you legal advice or
5 Mr. Burke. If he has the opportunity to produce these
6 documents, he knows well enough what to do. You don't have to
7 educate Mr. Burke, Trust me. He is an experienced trial
8 lawyer both on the civil and criminal side, and I've seen it
9 myself. He knows exactly what he's doing, and he knows me
10 well enough to know that I won't do well with his client if
11 his client is fooling around. So, I wouldn't worry about that
12 too much with Mr. Burke.

13 On the other hand, you know -- let's take a simple
14 example. A credit card bill, I don't think it's required
15 under the Federal Rules, unless you could educate me, that if
16 the -- if the Defendant said, "you know, I threw them all
17 away," or "the Plaintiff took all my copies of the credit card
18 bills," I don't -- I don't know that the Plaintiff has to then
19 go to the credit card company and say, "would you give me
20 credit card bills back to 1977." I don't know that the law
21 requires that. I'm not saying it doesn't, I'm saying I don't
22 know that it does. On the other hand, if we're within a one
23 year or five-year or six-year statute of limitations period,
24 you know, I think that might be -- that might be something
25 that I would enforce.

1 MR. SCHOLL: But I do think, Your Honor, that what
2 might — one has online access to one's credit card or bank
3 account, that one could download those statements without the
4 need potentially — you know, the Plaintiff can always go and
5 subpoena a credit card company, if we know the credit card or
6 the bank.

7 THE COURT: Well, let me ask you this. Let me ask
8 you this, Mr. Scholl.

9 MR. SCHOLL: Sure.

10 THE COURT: Do you have a lot of these documents, as
11 Mr. Burke indicated?

12 MR. SCHOLL: We have what purports to be the actual
13 Trust documents for the Irrevocable and we have what purports
14 to be — and I say purports to be because there's a question
15 of whether or not it was fully signed — to be what's called
16 this Grantor Trust.

17 THE COURT: Are there signatures on the document?

18 MR. SCHOLL: That's —

19 THE COURT: There are or there aren't.

20 MR. SCHOLL: There are or there aren't, as Your
21 Honor, but the — for example, the Grantor Trust apparently
22 wasn't fully notarized.

23 THE COURT: Okay.

24 MR. SCHOLL: And there's a question of whether or
25 not it was fully signed.

1 THE COURT: Okay. Those minutia we don't need right
2 now --

3 MR. SCHOLL: No, I understand.

4 THE COURT: -- prior to exchange of documents.

5 So, what I think I will do -- do you agree with me,
6 Mr. Scholl, that the responses that Mr. Burke's client will
7 give to document request 10, 26 and 27 encompass your document
8 requests to both the Grantor and the Irrevocable Trust?

9 MR. SCHOLL: I don't know that they do. I --

10 THE COURT: Because we're going to get to it right
11 now.

12 MR. SCHOLL: Right. I say that because those are
13 three that deal with general requests about certain financial
14 information about the Trusts. But there is a more detailed
15 specification in the subpoenas, such as communications with
16 the accountant, that might not be interpreted as fully
17 encompassed by requests for tax returns.

18 THE COURT: Mr. Burke, there's nothing here that
19 seems overly burdensome to my eyes, and, so, what I'm hoping
20 we can do is: To the extent that Mr. Scholl makes the point,
21 "Judge, there may be a few categories of documents, like
22 accounting" -- I don't know whether there's an accounting
23 privilege --

24 MR. SCHOLL: Well --

25 THE COURT: -- issue. There may be a lawyer

1 privilege issue. I don't -- put the privilege aside.

2 But what I'm anticipating is that in connection with
3 your production of the Plaintiff's requests of the Defendant,
4 you can address yourself to the subpoena -- subpoenae, both of
5 them, and produce at the same time whatever documents you have
6 that are responsive.

7 I'm looking and I don't have a good enough handle to
8 know whether there's anything that is burdensome here. It
9 looks to me like the Plaintiff is trying to understand what
10 the Trust owns and what monies it had and where the monies
11 went, generally.

12 Is that the idea here, Mr. Scholl?

13 MR. SCHOLL: Yes. Also, I should point out that,
14 that these -- at least, the Irrevocable Trust apparently was
15 what most -- what bank accounts were titled in and were
16 treated, and part of the issue of the Complaint goes to
17 "family money," that that's how the accounts were held,
18 that's how the funds were held.

19 And you raised the account -- possibility of
20 accountant privilege, I will point out that that was one of
21 the reasons why the Plaintiff -- we were being very careful to
22 see if we can get tax returns, for example, without having to
23 try to get an order from the Court with the accountant.
24 That's why -- one of the reasons why we initially went through
25 nonparty subpoenas, and then we have -- actually, since we

1 haven't gotten — didn't get compliance with the subpoenas, we
2 added them to the document production, because we would have
3 to make a showing to Your Honor if we wanted to subpoena the
4 accountant himself for tax returns.

5 THE COURT: Yes. I mean, there's also a request for
6 tax returns here.

7 Do you have a protective order in place yet?

8 MR. BURKE: That was one thing I was going to bring
9 up. We did have discussions. We would want to have a
10 protective order in place. The Court has the standard that
11 you use. We had those discussions of including that as part
12 of —

13 THE COURT: Prepare it, sign it and I'll sign it.

14 MR. BURKE: Fine. I will speak to counsel and we'll
15 hammer that out to make sure that we have a protective order
16 in place.

17 Your Honor, if I may suggest — the Plaintiff claims
18 in essence two different buckets of monies that went into
19 these Trusts, her SSI payments and the payment from a
20 settlement. I don't believe that they should be entitled —
21 and this is addressed to the scope — that they should be
22 entitled to everything else that goes into the Trust if those
23 are the only two sources of monies going into that Trust that
24 they're making allegations about.

25 So, in essence, if she started receiving SSI

1 payments in 2019, she shouldn't be able to receive discovery
2 related to the Trust prior to that. If she had a settlement
3 in 2019, she shouldn't be able to. So, I don't know
4 off-the-top of my head when both of those things happened, but
5 I can look at the Complaint and see what the Plaintiffs
6 allege. But I don't think it should be where they get
7 everything from the Trust that's responsive if their
8 allegations are only tied to those two events.

9 THE COURT: You know, in my desire to move this
10 along, I don't like discovery disputes with lawyers that have
11 as much gray hair as I have, because it's a sign to me that
12 you both know exactly what you're doing, and I don't want
13 to — I don't want to run a kindergarten here for unnecessary
14 disputes.

15 If you have legitimate disputes, I'll rule on them,
16 but this feels like — and I'm also thinking to myself, now
17 you haven't really met and conferred, and you haven't really
18 tried to resolve these issues before you got to me.

19 MR. BURKE: Correct.

20 THE COURT: And, so, look, if there is a claim
21 here — is there some other claim other than the Social
22 Security and the settlement monies?

23 MR. SCHOLL: That seems — the claim here has, has
24 to do with the fact that this was in essence a family since
25 1977. It was in essence a family since 2002. It was in

1 essence a family and the funds -- and the reason I say that is
2 that what is being now treated as the Trust was what was being
3 treated as the family funds. Mom wasn't being paid for
4 working for, for businesses that the Defendant had. Monies
5 that were going into this -- bank accounts labeled as Trusts
6 were basically being treated as this is our family money. The
7 actual beneficiary --

8 THE COURT: That's why you have lawsuits for. Do
9 you have a lawsuit for family money here? What is it?

10 MR. SCHOLL: The lawsuit has to -- the lawsuit does
11 describe in terms of during the time -- this is evident --
12 this is evidence of her, her abuse and control -- the control
13 over her during that time.

14 I also point out that the Trust's beneficiary -- the
15 Irrevocable Trust's beneficiary is her son.

16 THE COURT: Yeah, but -- so, let's, let's tie your
17 requests to your claims for relief.

18 MR. SCHOLL: Sure.

19 THE COURT: And if you're thinking that you're going
20 to go outside the footprint of the claims for relief --

21 MR. SCHOLL: No.

22 THE COURT: -- the answer is: I won't permit it.

23 MR. SCHOLL: No.

24 THE COURT: I'm not going to permit that.

25 MR. SCHOLL: Mm-hmm.

1 THE COURT: It feels a little like this could turn
2 into a fishing expedition quickly. I'm not going to permit
3 that. So, if you have an unjust enrichment claim that he has
4 monies belonging to her, then you're entitled to find out
5 whether in fact that's proven. But if you're thinking that
6 you can broaden that request to something other than the
7 elements of your claim for relief, I'm not going to permit it.

8 MR. SCHOLL: Also, I would say, it's also relevant
9 to the defense to the 1.6 million counterclaim.

10 The 1.6 million counterclaim, the source of those
11 funds are the Trusts.

12 THE COURT: I thought it was in a vault or a safe.

13 MR. SCHOLL: No, that's the alleged, that there were
14 two safes in the — in the house that, that, that the
15 Plaintiff was alleged to have rifled through, but the County
16 dropped the charges.

17 THE COURT: If your point is that a factual defense
18 exists to the "taking, stealing" — whatever you want to say
19 it — "the 1.6," and the defense is, "no, no, no, that was my
20 money, that was the family money," that's plausible.

21 MR. SCHOLL: Yes.

22 THE COURT: It's plausible, Mr. Burke. And, so,
23 that may require you to produce additional monies —
24 additional documents concerning those monies beyond the Social
25 Security, beyond the 60,000, whatever it is, settlement. But

1 that's a finite quantity of documents too.

2 MR. BURKE: Right. And I believe, although I
3 haven't seen it, from my understanding, he was — you know,
4 the D.A.'s Office did the detailed investigation of these
5 transfers going to the son, where he set up a phony website
6 saying, "here's the 10 percent return you're getting on these
7 monies," it was all bogus. He stole 1.6 million and it shows
8 that the monies on occasion being transferred from the
9 Trust — I don't disagree with that — based on false
10 representations by the son, but those are also much later in
11 time where the assets were there.

12 So, it gets back to — from their perspective,
13 what's their claim that she put into that Trust, not what's
14 the claim that came out of it, because that I think has
15 already been — he pled guilty. He admitted that he stole
16 1.6 million. So that's that, you know, he's already been
17 sentenced. So, I don't think that's even an issue.

18 THE COURT: Well, they want the money back.

19 MR. BURKE: We want the money back — he, he —

20 THE COURT: So, what kind of a defense are you
21 trying to mount, Mr. Scholl?

22 The son pled guilty.

23 MR. SCHOLL: Well, the son pled guilty to a
24 D felony.

25 THE COURT: I don't care what he pled guilty to.

1 MR. SCHOLL: In terms of -- in terms of the so
2 called -- of the so called 1.6, there are two points I want to
3 make. The first point is, if the funds -- and just because
4 the son pled guilty -- if the funds --

5 THE COURT: Does that mean he didn't steal the
6 funds?

7 MR. SCHOLL: No, no. The funds came from an account
8 in which he was the beneficiary of the Trust that had combed
9 the funds. There is a question there regardless of whether or
10 not it was mounted by the son's lawyer.

11 Second of all, the sources of the funds --

12 THE COURT: If he pled guilty, he pled guilty. I'm
13 going to take an adverse inference and I'm going to hold it
14 against him or the jury will.

15 MR. SCHOLL: Against him, certainly, but not against
16 the question of whether or not the funds, if taken, were
17 stolen, and whether or not the sources of the funds were from
18 legitimate sources, and whether or not, in point of fact, the
19 question on the -- on the table there has to do with the fact
20 that about half a million dollars was actually returned from
21 this cryptocurrency investments to, to the Defendant by the
22 Orange County District Attorney's Office, not mentioned in, of
23 course, the counterclaim.

24 THE COURT: All right. So, here's what we're going
25 to do, because I don't -- I'm not going to do this for much

1 longer --

2 MR. SCHOLL: Right.

3 THE COURT: -- today. Here's what we're going to
4 do. Number 1, you'll meet and confer and you will put your
5 heads together. There isn't going to be a fishing expedition
6 here. If you can't agree, then you'll look at my rules,
7 you'll write me together a joint one five-page letter
8 explaining what you can't agree on, and I'll bring you back in
9 in person to address that.

10 For now, I think what I'm going to do is ask, Mr.
11 Burke, in connection with your response and/or production of
12 the documents that you have been asked to produce, Plaintiff
13 to Defendant, the document request, you'll prepare a response
14 to the -- each of the subpoenas and you'll either produce or
15 object. My advice would be -- you heard what I said today --
16 I wouldn't object to something that I'm going to overrule your
17 objection on. On the other hand, if you can't agree on this
18 framework, you can write to me.

19 So, to the extent that Mr. Burke has shown up late,
20 because his client hired him late to respond to the subpoenas,
21 I'm directing him to respond at the same time he responds to
22 the Plaintiff's document demand, number 1.

23 Number 2, I'm directing that you meet and confer to
24 reduce and/or eliminate the issues in connection with both
25 subpoenas and the document request, which I see is going to

1 become an issue as well.

2 If you can't agree, be really sure you can't because
3 it's — discovery disputes here, nobody walks away happy, I
4 promise you. Please do your best to agree, and if you can't,
5 use my rules, write me a letter, and I'll bring you in for an
6 in-person conference and I'll rule on the requests you've
7 made.

8 It seems, it seems to me that, just superficially,
9 if the young man pled guilty to stealing money, the money is
10 stolen. There isn't a whisper of a fault in my mind that
11 somehow he could mount a defense now to, to not being liable
12 for the money he stole.

13 MR. SCHOLL: What I'm asking him to —

14 THE COURT: He has to be liable for what he stole,
15 right?

16 MR. SCHOLL: But he is not a party here.

17 THE COURT: Huh?

18 MR. SCHOLL: He is not a party here.

19 THE COURT: I get it. No. I get it.

20 MR. SCHOLL: And there is a second question because
21 of what he pled to did involve a lesser offense that was
22 added, there is some question about — and this is, this is
23 detailed and I'm sure Your Honor is not interested in knowing
24 that he diverted some of his investment to a woman in Russia.

25 THE COURT: Well, all of that is interesting, but

1 this is between the Plaintiff and the Defendant.

2 MR. SCHOLL: Right.

3 THE COURT: Right? And, so, the Defendant is
4 claiming that Plaintiff owes the 1.6.

5 MR. SCHOLL: Right.

6 THE COURT: And it may be that the son stole the
7 money, as you said, and the Plaintiff had nothing to do with
8 it, and, therefore, the counterclaim is going to fall by the
9 wayside. It may very well be. I don't know enough about this
10 case to be dangerous yet, but here is what I do know. There's
11 a lot going on here just on the document production, get to
12 it. Let's get — we've had a conference and you have a
13 scheduling order in place, right?

14 MR. SCHOLL: Yes.

15 THE COURT: So, don't think that we're going to
16 extend discovery because you're fighting, quite the opposite
17 will happen. So, please, get along. You're both entirely
18 capable. Strip this to what this lawsuit is about before me,
19 not some other lawsuit, some other people, some other things.
20 It's only going to be as to this, and you're not going to get
21 to — either of you for that reason — for that matter are
22 going to have a fishing expedition, use this as a platform to
23 bring other lawsuits based on information that you get here,
24 that's not going to happen. All right?

25 So, please get along. My rule is very clear. It's

1 a one letter, joint letter, if you can't get along.

2 All right. Is there anything else we need to do
3 today?

4 MR. SCHOLL: No.

5 MR. BURKE: No, Your Honor.

6 THE COURT: All right. Take good care.

7 MR. BURKE: Thank you, Your Honor.

8 THE COURT: All rise. Court in recess.

9 (Case adjourned)

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